

## LEGISLATION AFFECTING HOUSING & URBAN DEVELOPMENT AND THE AREAS FOR USAID ASSISTANCE

Legislation/Status	Contents/Significance	Opportunities for Assistance
<b>Land Management and Expropriation Law</b>  Enacted 1985  Amended 1990 and several times thereafter	<ul style="list-style-type: none"> <li>× Will be replaced by the Real Estate Bill addresses publicly-owned land.</li> <li>× Determines gamin's responsibilities regarding acquisition, servicing, and land transfers for housing development, particularly for multifamily projects.</li> <li>× Covers issues regarding land consolidation and subdivision, title release, and gmina property pricing.</li> <li>× Discourages land speculation by allowing gmina to impose penalty fees for failure to meet development deadlines.</li> <li>× Does not regulate industries involved in the real estate development process.</li> <li>× Restricts gmina's rights to establish pricing policy for privatization of municipal housing, limiting asset management strategies.</li> </ul>	
<b>Real Estate Bill</b>  Currently in Draft  Intergovernmental review: mid-1995	<ul style="list-style-type: none"> <li>× Will deal with the real estate market comprehensively, including issues inadequately addressed in other laws (transactions costs, licensing, mediation, and expropriations).</li> <li>× A draft has been in MOSEC since 11/94 but has not been available for comments to individuals or organizations besides Polish consultants to MOSEC.</li> <li>× While the scope of the final legislation has not been established, MOSEC feels it urgent to get a draft bill adopted by the Sejm as soon as possible and worry about amendments later.</li> <li>× Ongoing research commissioned by MOSEC will address impediments to the system and gaps in existing legislation, yielding amendments to the law soon after passage.</li> <li>× The law will primarily address the process of public and private land development, the appraisal and transfer process, land assembly and subdivision, and standards and licensing procedures for real estate related professions.</li> </ul>	<ul style="list-style-type: none"> <li>× Potential TA to MOSEC on 1) how does a well functioning real estate market work? 2) how does legislation in the US and Europe regulate real estate markets? 3) how do Polish regulations perform vis-à-vis standards elsewhere and with respect to current impediments in creating a modern real property market? 4) what legislative changes to make to bring the Polish legal infrastructure up to speed?</li> <li>× MOSEC received a grant and contracted ART (Technical University of Olsztyn) and CREI was to address: real estate brokerage, property management, land and real estate development and finance, and the fiscal environment. TA might include helping CREI review relevant US legislation, policy studies on tax impacts in Fall of 1995.</li> </ul>
<b>Physical Planning Law</b>  Enacted July 1994	<ul style="list-style-type: none"> <li>× Introduces greater flexibility into planning and gives municipalities greater discretion in allocation process.</li> <li>× Streamlines the investment permit process, reducing the necessary steps from 4 to 2 and imposing strict deadlines for agency review.</li> <li>× Unfortunately, law requires all applications pending by 1/1/95 to be refiled.</li> <li>× The Minister of Environmental Protection has yet to issue legislation regulating environmental impact reviews, and no project size threshold has been determined. Depending on the review requirements imposed, the process could significantly slow housing project development and increase land cost.</li> <li>× It is too early to assess the adequacy of the law itself and its compatibility with other recently adopted legislation.</li> </ul>	<ul style="list-style-type: none"> <li>× Dir. H. Jedrzejewski has indicated the potential for TA from RHUDO to help develop and implement a system to organize physical planning needs and data bases for voivodships. Needs follow up.</li> </ul>
<b>Building Code</b>  Enacted July 1994	<ul style="list-style-type: none"> <li>× Streamlines previously scattered regulations and revokes some of the old "normatives" imposing unnecessary costs.</li> <li>× Focuses in new form on safety and health standards, standards and licensing procedures for builders, and activities of building inspection.</li> <li>× Main problem with this law is mandatory demolition for structures erected without permits (implementing regulations of 12/94). No current information of cases where this has actually been enforced, but this is an inappropriate measure.</li> </ul>	<ul style="list-style-type: none"> <li>× There is no information on how many units are built annually without permits. Unofficial estimates are about 30% of annual residential construction, which seems high. The previous building code provided for demolition if construction did not pass a pre-determined stage.</li> <li>× Potential TA in assessment of costs imposed by new regulation, if seems to be imposing new impediments.</li> </ul>

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<b>Law on Rents and Housing Allowances</b> Enacted July 1994	<ul style="list-style-type: none"> <li>× Replaced the Housing Law. Grants local governments more power in rent setting, allowing for long overdue rent adjustments.</li> <li>× First attempt at targeting subsidies on low income households through introduction of housing allowances.</li> <li>× Introduces possibility of eviction for non-payment of rent without the provision of alternative dwelling.</li> <li>× In its present form does not provide a proper vehicle for rationalization of the communal housing sector and local housing strategy by gminas, who have been burdened by providing allowances to housing coop members and owners of single family homes.</li> <li>× Cost sharing formula will almost certainly be changed</li> </ul>	<ul style="list-style-type: none"> <li>× PADCO is providing assistance to MOSEC.</li> </ul>
<b>Condominium Law</b> Enacted June 1994	<ul style="list-style-type: none"> <li>× This law is an important step in clarifying and protecting property rights, but does not establish owners associations as legal entities, which could be a source of future problems.</li> <li>× The legal issue is one of mixed ownership properties (privatized units in gmina- or enterprise-owned buildings) where owners cannot afford full maintenance fees or capital repair assessments; legal avenue for dealing with this problem will have to be created. After criticism it is being reviewed.</li> </ul>	<ul style="list-style-type: none"> <li>× Implementation will include working with condominiums at the gmina level; providing model condominium charters.</li> </ul>
<b>Law on Transfer of Enterprise Housing by State Enterprises (Communalization Law)</b> Enacted July 1994	<ul style="list-style-type: none"> <li>× This is the law facilitating the transfer of enterprise housing to local governments.</li> <li>× Law allows for other options as well, such as privatization, thus removing a principal impediment to enterprise privatization.</li> <li>× Gminas have to accept the transfer, and for gminas with substantial shares of the enterprise stock, the transfer of the large negative asset will exacerbate fiscal problems.</li> <li>× This can be addressed through local rental strategies and subsidy policies as well as property management, local planning and budgeting, and improved fiscal management.</li> </ul>	<ul style="list-style-type: none"> <li>× Technical assistance should focus on joint implementation of all of the new legislation affecting local housing strategies since all of them are closely linked.</li> <li>× See rental reform law.</li> </ul>
Bill on Some Form of Support to Housing Construction and On Changes to Some Laws Draft	<ul style="list-style-type: none"> <li>× This bill should be voted on in the Sejm sometime in 1995.</li> <li>× The two major components are a contractual savings system and non-profit housing construction (TBS system), both with financial and institutional provisions.</li> <li>× At present, MOSEC and the Ministry of Finance are still at the stage of negotiating particular provisions. Both programs, if approved, are potentially large enough to have a major (potentially destabilizing) impact on banking and fiscal systems.</li> </ul>	<ul style="list-style-type: none"> <li>× PADCO/Abt are providing TA.</li> <li>× TA for the implementation of TBS system, both at the national (work on National Housing Fund) and local (assistance in creating TBS organizations) levels.</li> <li>× Potential for TA in implementation of the contractual savings system.</li> </ul>
<b>Cooperative Law</b> Enacted Sept. 1982 <b>Law on Change to Cooperative Law and on Changes to Some other Laws</b> Enacted July 1994	<ul style="list-style-type: none"> <li>× Law is not limited to housing cooperatives, but regulates all cooperative-type legal entities.</li> <li>× With respect to housing coops, the 1994 changes introduced more flexibility into the transfer rules as well as into the right of use of coop-owned units.</li> <li>× Coops are now empowered to set detailed rules in these areas in their statutes.</li> </ul>	

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<b>Law on Local Taxes and Fees</b> Enacted January 1991	<ul style="list-style-type: none"> <li>× Determines current property tax system, based on the area for land and on the useful floor space for buildings.</li> <li>× The current system is to be replaced by an ad valorem property tax by 1999.</li> <li>× A bill is being drafted and is expected to be presented for comment between in the second half of 1999.</li> <li>× Interministerial committee developed a consensus on basic institutional framework and GOP adopted it.</li> <li>× Association of Polish Cities strongly support the ad valorem reform</li> </ul>	<ul style="list-style-type: none"> <li>× PADCO, ICMA, CREI</li> <li>× Substantial effort already provided in development of prototype system in Krakow. MOF has not indicated strong desire for continued assistance, but request for implementation assistance via CREI likely to both MOF and APC.</li> <li>× USAID consensus is previous efforts were successful and TA for promotion of the law is inappropriate.</li> <li>× Some potential for study tour to facilitate implementation, particularly at national level.</li> </ul>
<b>Law on Perpetual Books and Mortgages</b> Enacted January 1982  <b>Law on Introduction of Implementing Regulations for Law on Notaries and on Changes to Code of Civil Procedures and to Law on Perpetual Books and Mortgages</b> Enacted February 1991	<ul style="list-style-type: none"> <li>× The current legal infrastructure regulating the Perpetual Books and mortgages was adopted in 1982. In addition, in 1964 the GOP also had amended the Code of Civil Procedures to establish the current priority of debt.</li> <li>× A special decree in 1991 amending the Law on Land Registers and Mortgages transferred maintenance of the registries from the notaries to the common courts.</li> <li>× Together, these acts affect the risk of mortgage lending, impose high transactions costs on lenders and borrowers, and greatly extend the process of perfecting liens.</li> <li>× The impact on the progress of the Housing Finance Project is severely negative.</li> <li>× In addition, the law imposes an expensive and cumbersome process for evictions, which remains effectively untested.</li> </ul>	<ul style="list-style-type: none"> <li>× IRIS, potential for PADCO</li> </ul>
<b>Law on Registered Pledges and the Pledge Registry</b> Draft	<ul style="list-style-type: none"> <li>× Submitted for intergovernmental review by the Ministry of Justice in November 1994, this draft law is intended to simplify the process and reduce the costs of perfecting security interests for creditors, to allow debtors to maintain possession and use of pledged assets, and to facilitate access by third parties to clear and reliable information on secured interests.</li> </ul> <p>NOTE:</p> <ul style="list-style-type: none"> <li>× MOJ signed a letter of intent with Norway to create and implement a centralized registration system operating under the auspices of MOJ. Goal is to create centralized system for registries; project will address establishment of a lien registry, computerization and centralization of company and land registries. Pre-study phase (Feb.-July) will determine how the centralized registry, CORS, will be structured, demand for registry data from private users, telecom requirements, and financing needs. MOJ and IRIS are contributing \$100,000 each and AID and WB have been approached for additional assistance.</li> <li>× Phase I will involve pilots in 2 to 4 voivod courts to test the system. Phase II involves implementation of a full scale pilot focusing on a national lien registry to be operational by mid-1996. Phase III will encompass implementation of complete registry system.</li> </ul>	<ul style="list-style-type: none"> <li>× IRIS, potential for PADCO, CREI</li> <li>× An important and greatly needed area of reform. Potential TA from PADCO in Phase I, particularly with respect to system design and pilots. Simultaneous assistance to land registries, through MOJ to the local courts in assisting computerization and simplification process linking to other registries.</li> </ul>